

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE REDISTRICTING 2023

SPECIAL MASTER

Misc. No. 2:23-mc-1181-AMM

**SECRETARY ALLEN’S COMMENTS TO
PROPOSED MORIARTY REMEDIAL PLANS**

Michael Moriarty submitted three proposed remedial plans that were placed on the docket in this proceeding earlier today. *See* Doc. 26. Each plan is flawed.

As the Secretary explained yesterday, any court-drawn remedial plan must keep in place the existing 2023 Plan, except to the extent necessary to comply with the District Court’s injunction. The District Court’s “remedial authority” is still “limited” in these circumstances. *North Carolina v. Covington*, 138 S. Ct. 2548, 2554 (2018). A district court cannot “override the legislature’s remedial map” in a way that goes beyond what is necessary to meet the demands of federal law. *Id.* Once the violation has been remedied, the District Court’s “proper role in” Alabama’s “districting process [i]s at an end.” *Id.* at 2555.

The Moriarty Plans significantly depart from the 2023 Plan’s lines for all seven districts, split numerous communities of interest, split more counties than needed to satisfy the requirement of equal population, and sacrifice compactness

without explaining why such departures from the 2023 Plan are “necessary to meet the specific ... violations involved.” *Upham v. Seamon*, 456 U.S. 37, 42 (1982). Likewise, Moriarty has not shown that the use of race in his remedial plans was “narrowly tailored to comply with § 2.” *Bush v. Vera*, 517 U.S. 952, 982 (1996) (plurality).

Respectfully Submitted,

Steve Marshall
Attorney General

/s/ Edmund G. LaCour Jr.
Edmund G. LaCour Jr. (ASB-9182-U81L)
Solicitor General

James W. Davis (ASB-4063-I58J)
Deputy Attorney General

Misty S. Fairbanks Messick (ASB-1813-T71F)
Brenton M. Smith (ASB-1656-X27Q)
Benjamin M. Seiss (ASB-2110-O00W)
Charles A. McKay (ASB-7256-K18K)
Assistant Attorneys General

OFFICE OF THE ATTORNEY GENERAL
STATE OF ALABAMA
501 Washington Avenue
P.O. Box 300152
Montgomery, Alabama 36130-0152
Telephone: (334) 242-7300
Edmund.LaCour@AlabamaAG.gov
Jim.Davis@AlabamaAG.gov
Misty.Messick@AlabamaAG.gov
Brenton.Smith@AlabamaAG.gov
Ben.Seiss@AlabamaAG.gov
Charles.McKay@AlabamaAG.gov

Counsel for Secretary Allen

CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2023, I filed the foregoing using the Court's CM/ECF system, which will serve all counsel of record.

/s/ Edmund G. LaCour Jr. _____
Counsel for Secretary Allen